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2 Nevada Bar No.: 000365  
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9 *Attorney for Defendant/Petitioner*  
10 **CALIFORNIA CASUALTY INDEMNITY EXCHANGE**

11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 CHRISTOPHER L. CARLE; ASA  
14 EUBANKS,

CASE NO.:

15 Plaintiffs,

16 vs.

17 CALIFORNIA CASUALTY INDEMNITY  
18 EXCHANGE, a foreign corporation;  
19 DOES 1 through 10; ROE ENTITIES 11  
20 through 20, inclusive jointly and severally,

21 Defendants.

22 **PETITION FOR REMOVAL**

23 TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
24 FOR THE DISTRICT OF NEVADA:

25 The Petitioner, CALIFORNIA CASUALTY INDEMNITY EXCHANGE, by and  
26 through its undersigned counsel respectfully Petitions the Court for an Order removing  
27 the above-entitled action to the United States District Court and alleges as follows:

28 1. Petitioner, CALIFORNIA CASUALTY INDEMNITY EXCHANGE, is the  
Defendant in the above entitled action.

2. Defendant/Petitioner CALIFORNIA CASUALTY INDEMNITY EXCHANGE is

1 a California company with its principal place of business in San Mateo, California. The  
2 Plaintiffs are citizens of Nevada. There are no other named defendants to this suit.

3 3. The above-entitled action was commenced against the Petitioner on August  
4 13, 2012, in the District Court, Clark County, Nevada, and is now pending in such Court  
5 as Case No. A-12-666695-C.  
6

7 4. The Petitioner was served by mail with the Summons and Complaint in Case  
8 No. A-12-666695-C by the Department of Commerce, Insurance Division of the State of  
9 Nevada on August 28, 2012. The Summons and Complaint were received by Petitioner  
10 on August 31, 2012, the date Defendant first received a copy of the pleadings.  
11

12 5. The above action is an action for damages wherein the amount in controversy  
13 exceeds the sum of \$75,000.00. In support of this allegation, Petitioner further states  
14 as follows:

15 This case arises out of a motor vehicle accident that occurred on July 14, 2011.  
16 At that time, the plaintiffs were occupants in a vehicle insured with a policy including  
17 underinsured motorist coverage (UIM) benefits. The UIM limits of the policy on its face  
18 are \$100,000.00 per person and \$300,000.00 per occurrence.  
19

20 In their Complaint, Plaintiffs Christopher L. Carle and Asa Eubanks allege three  
21 claims for relief: Breach of Contract; Violation of the Unfair Claims Practices Act and  
22 Breach of the Covenant of Good Faith/Bad Faith. Each claim for relief alleges general  
23 damages in an amount in excess of \$10,000.00, and the prayer for relief purports to  
24 allege punitive damages. Demands of \$100,000.00 have been made by each of the  
25 Plaintiffs. By virtue of the extracontractual claims of bad faith, and punitive damages  
26 which have been joined with the contract claim, the amount in controversy is also met.  
27 See Sharp Electronics Corp. v. Copy Plus, Inc., 939 F.2d 513 (7th Cir. 1991); Garza v.  
28

1 Bettcher Industries, Inc., 752 F.Supp. 753, 763 (E.D.Mich. 1990); Mullins v. Harry's  
2 Mobile Homes Inc., 861 F.Supp. 22 (S.D.W.Va. 1994). In Nevada, there is no statutory  
3 cap for damages against an insurance company. As a consequence, such damages,  
4 by themselves, if awarded may exceed the statutory jurisdictional amount of \$75,000.00  
5 for Federal Court. For these reasons, the jurisdictional prerequisite has been met in this  
6 case.  
7

8 6. There is diversity of citizenship between Plaintiffs and Defendant and this  
9 Court has jurisdiction over the above entitled action pursuant to 28 USC Section 1332  
10 and 28 USC Section 1441.

11 7. Copies of the Summons, Complaint and Proof of Service showing that the  
12 Complaint was served on Defendant on August 28, 2012, are attached hereto as  
13 Petitioner's Exhibit "A".  
14

15 WHEREFORE, Petitioner requests that the above entitled action be removed  
16 from the District Court, Clark County, Nevada to this Court.

17 DATED this 14<sup>TH</sup> day of September, 2012.

18 **PATTON, SHEA & KIRALY, P.C.**

19  
20 By: 

21 W. RANDOLPH PATTON, ESQ.

22 Nevada Bar No. 000365

23 3016 W. Charleston Blvd., Suite 195

24 Las Vegas, NV 89102

25 Attorney for Defendant CALIFORNIA

26 CASUALTY INDEMNITY EXCHANGE  
27  
28

**CERTIFICATE OF MAILING**

Pursuant to N.R.C.P. (5)(b), I hereby certify that service of the foregoing  
**PETITION FOR REMOVAL** was made on the 14<sup>TH</sup> day of September, 2012, by  
depositing a true copy of the same for mailing with the USPS at Las Vegas, Nevada,  
addressed to:

Joshua R. Harris, Esq.  
Kyle A. Stucki, Esq.  
Richard Harris Law Firm  
801 S. 4<sup>th</sup> St.  
Las Vegas, NV 89101  
Fax: 702-444-4455  
jharris@richardharrislaw.com  
kyle@richardharrislaw.com  
*Attorneys for Plaintiffs*  
*CHRISTOPHER CARLE and ASA EUBANKS*

  
An Employee of PATTON, SHEA & KIRALY, P.C.



BRIAN SANDOVAL  
Governor

STATE OF NEVADA

AUG 31 2012

TERRY JOHNSON  
Director

SCOTT J. KIPPER  
Commissioner



DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

1818 East College Pkwy., Suite 103  
Carson City, Nevada 89706  
(775) 687-0700 • Fax (775) 687-0787  
Website: doi.nv.gov  
Email: insinfo@doi.state.nv.us

August 28, 2012

California Casualty Indemnity Exchange  
Attn: James M. Sevey  
1900 Alameda De Las Pulgas  
San Mateo, CA 94403

RE: Christopher L. Carle, et al. vs. California Casualty Indemnity Company, et al.  
District Court, Clark County, Nevada  
Case No. A-12-666695-C

Dear Mr. Sevey:

Enclosed please find the following documents: Summons-Civil and Complaint. These documents have been served upon the Commissioner of Insurance as your attorney for service of process on August 24, 2012 in our Las Vegas office.

The appropriate action should be taken immediately, as you may only have 30 days from the date of this service to respond.

If you have any questions regarding this service, please advise.

Sincerely,

SCOTT J. KIPPER  
Commissioner of Insurance

By:

Felecia Casci

FELECIA CASCI  
Service of Process Clerk

Enclosures

c: Kyle A. Stucki, Esq.

**PROOF OF SERVICE**

I hereby declare that on this day I served a copy of the Summons-Civil and Complaint upon the following defendant in the within matter, by mailing a copy thereof, properly addressed with postage prepaid, certified mail return receipt requested, to the following:

California Casualty Indemnity Exchange  
Attn: James M. Sevey  
1900 Alameda De Las Pulgas  
San Mateo, CA 94403  
Certified Mail No. 7011 2970 0003 5621 1081

I declare, under penalty of perjury, that the foregoing is true and correct.

DATED this 28<sup>th</sup> day of August, 2012.

Felecia Casci

FELECIA CASCI

Employee of the State of Nevada  
Department of Business and Industry  
Division of Insurance

RE: Christopher L. Carle, et al. vs. California Casualty Indemnity Company, et al.  
District Court, Clark County, Nevada  
Case No. A-12-666695-C



State of Nevada, Division of Insurance  
The document on which this certificate  
is stamped is a full, true and correct  
copy of the original

Date: 8/28/12

By: Felecia Casci

BRIAN SANDOVAL  
Governor

STATE OF NEVADA

TERRY JOHNSON  
Director

SCOTT J. KIPPER  
Commissioner



DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

1818 East College Pkwy., Suite 103  
Carson City, Nevada 89706  
(775) 687-0700 • Fax (775) 687-0787  
Website: doi.nv.gov  
E-mail: insinfo@doi.state.nv.us

August 28, 2012

Kyle A. Stucki, Esq.  
Richard Harris Law Firm  
801 South Fourth Street  
Las Vegas, NV 89101

RE: Christopher L. Carle, et al. vs. California Casualty Indemnity Company, et al.  
District Court, Clark County, Nevada  
Case No. A-12-666695-C

Dear Mr. Stucki:

The service of process documents were served upon the Commissioner of Insurance on August 24, 2012, in our Las Vegas office. Service has been completed on defendant, California Casualty Indemnity Exchange, this date and enclosed are the following:

1. A copy of our letter to California Casualty Indemnity Exchange dated August 28, 2012
2. Copy of the Proof of Service dated August 28, 2012
3. Your receipt in the amount of \$30.00.

Pursuant to *Nevada Revised Statutes* 680A.260, 685A.200, and 685B.050, all documents after initial service of process may be served directly to the party.

If you have any questions regarding this service, please so advise.

Very truly yours,

SCOTT J. KIPPER  
Commissioner of Insurance

By: Felecia Casci  
FELECIA CASCI  
Service of Process Clerk

Enclosures

c: California Casualty Indemnity Exchange



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**CHRISTOPHER L. CARLE; ASA  
EUBANKS,**

**Plaintiffs,**

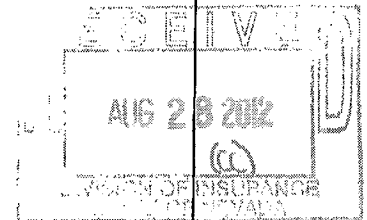
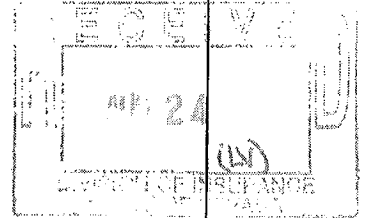
**vs.**

**CALIFORNIA CASUALTY INDEMNITY  
EXCHANGE, a foreign corporation; DOES 1  
through 10; ROE ENTITIES 11 through 20,  
inclusive jointly and severally,**

**Defendants.**

**SUMMONS – CIVIL**

Case No.: A-12-666695-C  
Dept. No.: XXIX



**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT  
YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE  
INFORMATION BELOW.**

**TO THE DEFENDANT:** A civil Complaint has been filed by the plaintiff against you for the relief set forth in  
the Complaint.

**CALIFORNIA CASUALTY INDEMNITY EXCHANGE**

1. If you intend to defend this lawsuit, within 30 days after this Summons is served on you exclusive of the  
day of service, you must do the following:

a. File with the Clerk of this Court, whose address is shown below, a formal written response to the  
Complaint in accordance with the rules of the Court.

b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of Plaintiff and this Court may enter a  
judgment against you for the relief demanded in the Complaint, which could result in the taking of money or  
property or other relief requested in the Complaint.


3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your  
response may be filed on time.

4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission  
members and legislators each have 45 days after service of this Summons within which to file an Answer or other  
responsive pleading to the Complaint.


Issue at the direction of:

**RICHARD HARRIS LAW FIRM**

**CLERK OF COURT**

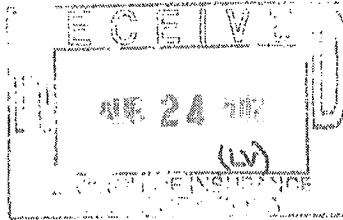
  
KYLE A. STUCKI, ESQ.

Nevada Bar No. 12646  
801 S. Fourth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff

  
DEPUTY CLERK  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155

Date  
**TERRI STRINGER**

**AUG 20 2012**



Electronically Filed  
08/13/2012 11:12:35 AM

*Alvin D. Quinn*  
CLERK OF THE COURT

**COMP**  
**JOSHUA R. HARRIS, ESQ.**  
Nevada Bar No. 9580  
**KYLE A. STUCKI, ESQ.**  
Nevada Bar No. 12646  
**RICHARD HARRIS LAW FIRM**  
801 South Fourth Street  
Las Vegas, Nevada 89101  
Phone: (702) 444-4444  
Fax: (702) 444-4455  
Email: [Kyle@richardharrislaw.com](mailto:Kyle@richardharrislaw.com)

*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

**CHRISTOPHER L. CARLE; ASA**  
**EUBANKS,**

**Plaintiffs,**

**vs.**

**CALIFORNIA CASUALTY INDEMNITY**  
**EXCHANGE/ a foreign corporation; DOES 1**  
**through 10; ROE ENTITIES 11 through 20,**  
**inclusive jointly and severally,**

**Defendants.**

Case No.: A-12-666695-C  
Dept. No.: XXIX

**COMPLAINT**

COME NOW, Plaintiffs CHRISTOPHER L. CARLE and ASA EUBANKS, by and through their attorneys of record JOSHUA R. HARRIS, ESQ. and KYLE A. STUCKI, ESQ. of the RICHARD HARRIS LAW FIRM, and complain and allege as follows:

**PARTIES AND JURISDICTION**

1. That at all times relevant herein, Plaintiff CHRISTOPHER L. CARLE (hereinafter "Christopher"), is and was a resident of Clark County, Nevada.

1           2.     That at all times relevant herein, Plaintiff ASA EUBANKS (hereinafter "Asa"), is and  
2           was a resident of Clark County, Nevada.

3           3.     That at all times relevant herein, Defendant CALIFORNIA CASUALTY  
4           INDEMNITY EXCHANGE (hereinafter "CALIFORNIA CASUALTY"), is and was  
5           a California company, providing insurance products and services, and conducting  
6           business in Clark County, Nevada.

7  
8           4.     The identities of Defendant DOES 1 through 10, and ROE ENTITIES 11 through 20,  
9           are unknown at this time and are individuals, corporations, associations, partnerships,  
10          subsidiaries, holding companies, owners, predecessor or successor entities, joint  
11          venturers, parent corporations or related business entities of Defendants, inclusive,  
12          who were acting on behalf of or in concert with, or at the direction of Defendants and  
13          are responsible for the injurious activities of the other Defendants.

14  
15          5.     Plaintiffs allege that each named Doe and Roe Defendant negligently, willfully,  
16          intentionally, recklessly, vicariously, or otherwise, caused, directed, allowed or set in  
17          motion the injurious events set forth herein.

18  
19          6.     Each named Doe and Roe Defendant is legally responsible for the events and  
20          happenings stated in this Complaint, and thus proximately caused injury and damages  
21          to Plaintiffs.

22          7.     Plaintiffs request leave of the Court to amend this Complaint to specify the Doe and  
23          Roe Defendants when their identities become known.

24  
25                **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

26          8.     On or about July 14, 2011, Christopher was lawfully driving a vehicle on a public  
27          roadway in Las Vegas, Nevada, in which Asa was a passenger.  
28

- 1 9. On or about July 14, 2011 and at all times relevant hereto, Shawn Christopher  
2 Monegan, operated a vehicle in such a negligent and careless manner as to cause a  
3 collision with Plaintiffs' vehicle.
- 4 10. As a direct and proximate result of Shawn Christopher Monegan's negligence, and  
5 the resulting accident, as herein alleged, Plaintiffs have been caused to suffer bodily  
6 injury, disability, medical treatment, as loss of enjoyment of life, great pain and  
7 suffering of mind and body, some or all of which may be permanent and/or  
8 experienced in the future, all to Plaintiffs' general damage in an amount to be proven  
9 at trial.
- 10 11. As a proximate result of Shawn Christopher Monegan's negligence, Plaintiffs were  
11 required to, and did employ, physicians and medical providers for examinations,  
12 treatment, consultations, and care of bodily injuries, and did incur medical and  
13 incidental expenses, in an amount in excess of \$10,000.00.
- 14 12. As a further and proximate result of Shawn Christopher Monegan's negligence,  
15 Plaintiffs have incurred past medical expenses, and Plaintiffs will incur future  
16 medical expenses in an amount to be proven at trial.
- 17 13. An automobile insurance policy number 1067914 was in force and effect for  
18 Christopher's vehicle, which Christopher was driving at the time of said incident.
- 19 14. Said insurance policy coverage was issued by Defendant CALIFORNIA  
20 CASUALTY and contained a provision for underinsured motorist coverage (UIM).
- 21 15. Defendant CALIFORNIA CASUALTY refused to properly and fairly compensate  
22 Plaintiffs under the terms of the contract, and specifically the UIM portion of  
23 Plaintiffs' insurance policy.
- 24  
25  
26  
27  
28

16. As a further and proximate result of Shawn Christopher Monegan's negligence, Plaintiffs have incurred attorneys' fees and costs. Plaintiffs will incur future attorneys' fees and costs that are presently undetermined.

**FIRST CAUSE OF ACTION**  
**(Breach of Contract)**

17. Plaintiffs repeat and reallege each of the allegations contained in the preceeding and subsequent paragraphs of this Complaint as fully set forth herein.
18. That an automobile insurance policy number 1067914 was in force and effect for Plaintiffs' vehicle, which Christopher was driving at the time of said incident.
19. That said insurance policy coverage was issued through Defendant CALIFORNIA CASUALTY.
20. That said policy includes a provision for underinsured motorist (UIM) coverage.
21. That a UIM claim is one of a contractual nature.
22. That Plaintiffs cannot recover the full amount of damages against Shawn Christopher Monegan as an underinsured motorist.
23. That Plaintiffs suffered damages as the result of the collision with Shawn Christopher Monegan in excess of \$10,000.00 and said damages include past and future medical expenses, general damages for past and future pain and suffering, past and future loss of earnings, and other damages.
24. That Defendant CALIFORNIA CASUALTY breached its contract to fully compensate Plaintiffs for damages under the terms of the uninsured motorist policy.
25. That said breach by Defendant CALIFORNIA CASUALTY has caused Plaintiffs damages in excess of \$10,000.00.

- 1       26.   Plaintiffs bring this cause of action against Defendant, CALIFORNIA CASUALTY  
2       to recover damages under Plaintiffs' underinsured motorist policy for personal  
3       injuries and other damages in an amount well in excess of \$10,000.00.

4                               **SECOND CAUSE OF ACTION**  
5                               **(Violation of the Unfair Claims Practices Act)**

- 6       27.   Plaintiffs repeat and reallege each of the allegations contained in the preceeding and  
7       subsequent paragraphs of this Complaint as set forth herein.  
8  
9       28.   That Defendant CALIFORNIA CASUALTY's actions were in violation of provisions  
10       of the Unfair Claims Practices Act (NRS 686A.310 et esq.), violation of which was  
11       done with Defendant CALIFORNIA CASUALTY's actual and/or implied  
12       knowledge.  
13  
14       29.   That pursuant to NRS 686A310(2), CALIFORNIA CASUALTY is liable for any  
15       damages sustained by Plaintiffs as a result of its violation of the unfair claims  
16       practices, including damages for benefits denied under the insurance policy,  
17       consequential damages, emotional distress, and attorney's fees.

18                               **THIRD CAUSE OF ACTION**  
19                               **(Breach of the Covenant of Good Faith and Fair Dealing/Bad Faith)**

- 20       30.   Plaintiffs repeat and reallege each of the allegations contained in the preceeding and  
21       subsequent paragraphs of the Complaint as fully set forth herein.  
22  
23       31.   That Defendant CALIFORNIA CASUALTY failed to deal fairly and in good faith  
24       with Plaintiffs by denying, and/or delaying payment of, benefits due under the  
25       insurance policy without proper cause.  
26  
27       32.   That as a result of the breach of the implied covenant of good faith and fair dealing,  
28       Plaintiffs are entitled to damages for denied benefits, consequential damages,

attorney's fees and emotional distress, incurred as a result of Defendant  
CALIFORNIA CASUALTY's bad faith.

**PRAYER FOR RELIEF**

Wherefore, Plaintiffs pray for relief and judgment against Defendants as follows:

1. Expectation damages for denied policy benefits in excess of \$10,000.00;
2. Consequential damages; including attorney's fees;
3. Punitive damages;
4. Costs of suit; and
5. For such other and further relief as the Court may deem appropriate.

DATED this 13<sup>th</sup> day of August, 2012.

RICHARD HARRIS LAW FIRM



JOSHUA R. HARRIS, ESQ.

Nevada Bar No. 9580

KYLE A. STUCKI, ESQ.

Nevada Bar No. 12646

801 S. Fourth Street

Las Vegas, Nevada 89101

*Attorneys for Plaintiff*